

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MARYELLEN CLEARY, :
: Plaintiff :
: v. : Civil Action No. 02-4737
: DAVID MICHAEL & COMPANY, :
: Defendant :
:

JOINT MOTION FOR EXTENSION
OF SCHEDULING ORDER

The parties jointly move for a 45-day extension of the discovery period deadline and dispositive motion deadline and a corresponding extension of all other dates in the Scheduling Order. In support of this motion, the parties state as follows:

1. On February 6, 2003, the Court issued a Scheduling Order in which it set June 30, 2003 as the discovery deadline; July 10, 2003 as the summary judgment motion deadline; and August 1, 2003 as the date for a trial pool listing.

2. The parties have proceeded diligently with discovery. The parties have exchanged Rule 26 Initial Disclosures. Defendant has served interrogatories and document requests, and plaintiff has responded to the interrogatories and has produced documents. Defendant has also requested authorizations in this ADA case from plaintiff, who provided signed authorizations. Defendant has used the authorizations to subpoena medical records and has shared all subpoenaed records with plaintiff. There is one remaining authorization that plaintiff has just signed (for long-term disability insurance records), and defendant has issued a subpoena for those records. Plaintiff, too, has served interrogatories and document requests.

Defendant has responded to the interrogatories and has produced documents exceeding 1,000 pages.

3. Following the written discovery exchanges, the parties began settlement discussions. Plaintiff has submitted a monetary-only settlement demand accompanied by her own economic analysis. Defendant is now doing its own economic and settlement analysis. The parties are interested in pursuing settlement discussions.

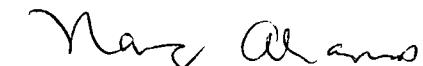
4. For defendant, the primary value of settlement is the economic value of avoiding litigation costs. The most significant discovery-related litigation costs are the taking of depositions, which (under the current Scheduling Order) must be otherwise done by June 30, 2003. Another significant litigation cost is the preparation of a summary judgment motion (if warranted by the discovery record), which (under the current Scheduling Order) must be otherwise done by July 10, 2003. If forced to incur deposition and summary judgment litigation costs, the value of and interest in settlement for defendant declines. Similarly, on the other side, if forced to incur deposition and summary judgment litigation costs, the attorneys' fees component of plaintiff's settlement demand increases. If the parties are forced to incur deposition and summary judgment litigation costs at this time, the gap between settlement positions will only widen, and the prospect for settlement will decline.

5. The parties need some reasonable time to engage in settlement analysis and discussions. The parties will proceed in settlement discussions in good faith.

6. This Joint Motion is the parties' first request for any modification to the Court's Scheduling Order.

For any and all of the reasons presented herein, the parties request that the Court grant this joint motion for a 45-day extension of the Scheduling Order dates.

Respectfully submitted,



NANCY ABRAMS
Spector, Gadon & Rosen
1635 Market Street, 7th Floor
Seven Penn Center
Philadelphia, PA 19103
(215) 241-8888

Attorney for Plaintiff



RAYMOND A. KRESGE
Klett Rooney Lieber & Schorling
Two Logan Square, 12th Floor
Eighteenth and Arch Streets
Philadelphia, PA 19103
(215) 567-7500

Attorney for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of June, 2003, I caused to be served a true and correct copy of the foregoing Joint Motion for Extension Of Scheduling Order by first-class mail, postage prepaid upon plaintiff's counsel:

Nancy Abrams, Esquire
Spector, Gadon & Rosen
1635 Market Street, 7th Floor
Seven Penn Center
Philadelphia, PA 19103


RAYMOND A. KRESGE